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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,418	04/07/2004	Sean Christopher Endler	81491 7114	7819
37123 7590 01/18/2008 FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE SUITE 1600 CHICAGO, IL 60603			EXAMINER NEURAUTER, GEORGE C	
			ART UNIT 2143	PAPER NUMBER
			MAIL DATE 01/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/820,418	<b>Applicant(s)</b> ENDLER ET AL.	
	<b>Examiner</b> George C. Neurauter, Jr.	<b>Art Unit</b> 2143	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

Claims 1-27 are currently presented and have been examined.

***Response to Arguments***

Applicant's arguments filed 23 October 2007 have been fully considered but they are not persuasive.

First, the previous Office Action did not reject the claims under 35 USC 112, 6<sup>th</sup> paragraph as there is no such "rejection". The paragraph provided in the previous Office Action was merely to allow the Applicant before the USPTO to have an opportunity and obligation to specify, consistent with these guidelines, when a claim limitation invokes 35 U.S.C. 112, sixth paragraph as these claims are required to be interpreted in a different manner. The claims have been presumed to invoke 35 USC 112, 6<sup>th</sup> paragraph. If the Applicant expressly wishes such interpretation be given to the claims, the Applicant must complete the steps as shown previously. The paragraph has been included in this Office Action for the convenience of the Applicant.

The Applicant argues that Bunney does not teach or reasonably suggest "selecting an event", "searching for an event profile corresponding to the event wherein the event profile includes a plurality of participants of the event", "identifying a plurality of recipients of a message based on a plurality of participants associated with the event", "detecting a message

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corresponding to the event", and "storing an event profile describing the event". The Examiner is not persuaded by these arguments. First, it is noted for the record that the broadest reasonable interpretation of the claim as required by MPEP 2111 does not require any particular element within the claim to accomplish the steps of the above argued limitations.

As the Examiner showed previously within column and line designations of Bunney, the claimed "selecting an event" is performed by a user (see column 9, lines 37-47, specifically lines 37-40 and 45-47).

The claimed "searching for an event profile corresponding to the event wherein the event profile includes a plurality of participants of the event" is accomplished by at least one server when a notification is to be sent (see column 5, lines 8-12, specifically "It maintains a database of all information....or any form of events sponsored by community organizers" and column 10, lines 1-3) (see also column 8, lines 65-66, specifically "Profiles can be used for a variety of purposes: special event planning...").

The claimed "identifying a plurality of recipients of a message based on a plurality of participants associated with the event" is also accomplished by at least one server when a notification or "message" is to be sent to a group or a

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"plurality of recipients" (see column 5, lines 8-12, specifically "It maintains a database of all information....or any form of events sponsored by community organizers" and column 10, lines 1-3)

The claimed "detecting a message corresponding to the event" is also accomplished by at least one server which is set up to detect at or around the time the "event occurs" or within a certain time range when a notification or "message" is to be sent (see column 5, lines 8-12, specifically "It maintains a database of all information....or any form of events sponsored by community organizers" and column 10, lines 1-3)

The claimed "storing an event profile describing the event" is also accomplished by at least one server (see column 5, lines 8-12, specifically "It maintains a database of all information....or any form of events sponsored by community organizers") (see also column 8, lines 65-66, specifically "Profiles can be used for a variety of purposes: special event planning...")

Therefore, the Applicant's arguments are not persuasive in view of the broadest reasonable interpretation of the claims and in further view of the teachings of Bunney and the claims are not in condition for allowance.

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**35 USC 112, 6<sup>th</sup> paragraph Interpretation**

The Examiner notes that claim 14 recites limitations that are presumed to invoke 35 USC 112, 6<sup>th</sup> paragraph. If the Applicant wishes such interpretation to be given to the claims, the Applicant must show for the record why the claim language properly invokes 35 USC 112, 6<sup>th</sup> paragraph and identify the function and corresponding structure. The Applicant must also amend the claims, if necessary, to meet the requirements of the 3-prong analysis as prescribed in MPEP 2181. The Examiner also suggests that the Applicant amend the specification, if necessary, to explicitly state what structure corresponds to the recited function with reference to the claimed terms and phrases, provided no new matter is introduced. See 37 CFR 1.75(d) and MPEP 2181.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 9-27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6,466,969 B1 to Bunney et al.

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Regarding claims 1, 2, and 9-14, Bunney disclosed a method and system comprising:

selecting an event; searching for an event profile corresponding to the event wherein the event profile includes a plurality of participants of the event; determining a plurality of recipients ("group") of a message ("notification") based on the plurality of participants of the event ("interested in participating"); and transmitting and displaying the message to the plurality of recipients based on a detected updated status of each of the plurality of recipients and for a predetermined amount of time ("time to live") and storing ("queuing") the message in association with the event (within a database; see at least column 5, lines 8-12). (see at least column 5, lines 8-12; column 8, lines 44-49; column 9, line 13-column 10, line 17) (see also column 10, lines 24-52)

Regarding claim 3-5, Bunney disclosed the method according to claim 1 wherein the event profile includes an event location, time, and duration. (see at least column 8, lines 44-49)

Regarding claim 6-7, Bunney disclosed the method according to claim 1 wherein the message is displayed prior to and during the event. (see at least column 9, lines 37-47; column 10, lines 1-3)

Regarding claim 15, Bunney disclosed a method comprising:

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selecting an event; receiving a message associated with the event; identifying a plurality of recipients of a message based on a plurality of participants associated with the event; and transmitting the message to the plurality of recipients and immediately displaying the message to the plurality of recipients (in "real time"). (see at least column 5, lines 8-12; column 8, lines 44-49; column 9, line 13-column 10, line 17) (see also column 10, lines 24-52)

Claim 27 is also rejected since this claim recites substantially the same limitations as recited in claim 15.

Claims 16 and 17 are also rejected since these claims recite limitations recited in claim 1 and are subject to the same citations within Bunney.

Regarding claims 19-21, Bunney disclosed the method according to claim 15 further comprising refining the plurality of recipients by adding additional recipients and subtracting deleted recipients. (column 9, lines 28-30 and 53-55; column 10, lines 1-3 and 9-11)

Regarding claim 22, Bunney disclosed a system, comprising:  
an interface module to detect a message corresponding to an event; a storage module to store an event profile describing the event including a plurality of participants of the event; and a participant selection module for identifying a plurality of



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recipients of the message based on the plurality of participants. (see at least column 5, lines 8-12; column 8, lines 44-49; column 9, line 13-column 10, line 17) (see also column 10, lines 24-52)

Regarding claim 23, Bunney disclosed the system according to claim 22 further comprising a message control module to coordinate sending the message to the plurality of recipients. (see at least column 9, line 14-16)

Regarding claim 24, Bunney disclosed the system according to claim 22 wherein the message includes one of a textual data, graphical data, video footage, audio data, and image data. (see at least column 2, lines 4-15)

Regarding claim 25, Bunney disclosed the system according to claim 22 wherein the storage module also stores the message associated with the event. (see at least column 5, lines 8-12)

Claim 26 is rejected since this claim recites substantially the same limitations as recited in claim 19.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

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the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over 6,466,969 B1 to Bunney et al.

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Regarding claim 8, Bunney disclosed the method according to claim 1.

Bunney did not expressly disclose wherein the message is displayed after the event, however, Bunney did expressly disclose wherein the message is displayed before and during the event (see at least column 9, lines 37-47 and column 10, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to display the message after the event since Bunney suggests that messages may be sent at any time regarding an event (see at least column 9, line 53-55; column 10, lines 1-3) and that events are scheduled to occur at a specific time (see at least column 8, lines 44-49). It would have been obvious to one of ordinary skill in the art that, based on these suggestions and disclosures within Bunney, a message may be displayed after an event has occurred.

Therefore, it would have been obvious to achieve the limitations of the claim.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this

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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is 571-272-3918. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C. Neurauter, Jr./  
Primary Examiner, Art Unit 2143